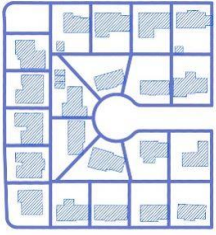


CLEAR & OBJECTIVE HOUSING APPROVAL CRITERIA UPDATE

This report is a compiled set of recommended preferred concepts for addressing the issues identified by interested parties during Phase 1 outreach efforts. Significant issues were discussed in a series of Working Group meetings during Phase 2 that informed these recommendations.

DRAFT PREFERRED
CONCEPTS REPORT

Dated November 13, 2018



CLEAR & OBJECTIVE Housing Approval Criteria Update

DRAFT Preferred Concepts Report

Introduction

As part of the Envision Eugene urban growth boundary (UGB) process, in 2015, the Eugene City Council provided direction on housing by initiating several projects. These included establishing a baseline urban growth boundary (UGB), establishing urban reserves, growth monitoring, and updating the City's needed housing (clear and objective) regulations for land use applications. Related to the City's needed housing regulations, the Council specifically directed the following:

- Update the City's procedures and approval criteria for needed housing applications.
- Target for City consideration of proposed updates: within 1 year of State acknowledgement of the baseline UGB.

Multiple factors contribute to the need to update the City's existing land use application approval criteria and procedures for housing developments. As identified in 2012, during the Envision Eugene process, Eugene will need to accommodate approximately 15,000 new homes within our urban growth boundary (UGB) by 2032. We will need to find a way to efficiently accommodate this growth while preserving the community's values regarding livability, public health and safety, and natural resource protection.

Oregon Revised Statute (ORS) 197.307(4) requires that housing developers must have access to an approval process that applies only clear and objective standards, conditions, and procedures regulating the development of housing. In addition, ORS 197.307(4)(b) requires that the clear and objective standards, conditions, and procedures may not discourage housing through unreasonable cost or delay. Standards, conditions and procedures regulating the development of housing include development standards such as setbacks and building height that apply to housing at the time of building permit, as well as land use application approval criteria that apply to the development of housing.

In 2001-2002, as part of a major update to the City's land use code, the Eugene City Council adopted a two-track system for the following types of land use applications: partitions, subdivisions, site reviews, conditional use permits and planned unit developments. One track allows applicants to use the "clear and objective" approval criteria required by ORS 197.307(4). In Eugene's land use code, these clear and objective tracks are called the "Needed Housing" tracks. The Needed Housing tracks are intended to offer a predictable path to approval for housing projects that meet the approval criteria contained in the track. The City also offers land use applicants an alternative process that includes discretionary (i.e. subjective) approval criteria. The discretionary track is designed to allow more flexibility in how projects may meet development standards. In Eugene's land use code, these discretionary tracks are called "General" tracks. Housing applicants are entitled to choose either track.

Through this project, Eugene’s existing clear and objective land use application approval criteria and procedures will be evaluated and may be updated to meet the following goals:

- accommodate growth on lands available within our current UGB
- continue to provide a clear and objective path to land use approval for all housing as required by State law
- guide future development in a way that reflects our community’s values

The Clear & Objective Housing: Approval Criteria Update kicked off earlier this year, following State acknowledgement of the baseline UGB in January 2018. As detailed in the [project charter](#) and [public involvement plan](#), this project will be completed in four phases. Phase 1 included outreach to stakeholders, an external land use code audit, and an internal legal analysis that helped to identify the range of issues to be addressed within the scope of this land use code update. Phase 1 culminated in the [Summary of Key Issues report](#). Phase 2, the current phase, used the Summary of Key Issues to engage stakeholders in a series of Working Group meetings where participants dove into the details of the code, responded to possible concepts and brainstormed new options.

About This Report

As part of Phase 2 outreach, a series of four working group meetings were held to engage stakeholders in discussions related to 19 significant key issues identified during Phase 1 of the Clear & Objective Housing Approval Criteria Update. Over the course of Phase 2, the interested parties list has grown to over 80 members. Meeting invites and reminders were sent to all interested parties. In addition, an outreach flyer was provided to various City committees such as the Housing Policy Board, the Sustainability Commission, Historic Review Board, and the Active Transportation Committee and project updates were included monthly in the Envision Eugene e-newsletter that reaches over 1,500 community members. Over 40 stakeholders representing neighborhood associations and residents, housing builders and developers, design professionals, housing advocates and affordable housing providers attended some or all of the working group meetings. The following is a list of meeting attendees:

Zoe Anton	Michael DeLuise	Mary Leontovich	Carol Schirmer
Bill Aspegren	Eric Dil	Colin McArthur	Kevin Shanley
Steve Baker	John Faville	Ed McMahon	Kristen Taylor
Ron Bevirt	Jan Fillingner	Jonathan Oakes	Nathaniel Teich
Alexis Biddle	Tresa Hackford	Keli Osborn	Tash Wilson
Gwen Burkard	Laurie Hauber	Darcy Phillips	Sue Wolling
Erik Burke	Susan Hoffman	Tom Price	Pam Wooddell
Renee Clough	Maureen Jackson	Bill Randall	Jan Wostmann
Seda Collier	Carolyn Jacobs	Kevin Reed	Stacey Yates
Paul Conte	Margie James	Kelly Sandow	Kelsey Zievor
Ted Coopman	Kaarin Knudson	Rick Satre	

This project was designed to be accessible to everyone. Meeting videos and materials along with online surveys were provided on the project website so that anyone wanting to participate had access to the

required materials. We also offered four two-hour drop-in “office hour” sessions for anyone wanting to ask more questions about the project, the land use process, or the issues and possible concepts discussed at the working groups. A compilation of the written comments received is included in [Appendix A](#).

This report is organized to present the preferred concepts for maintenance issues first followed by preferred concepts for the significant issues that were discussed with working groups. As a reminder, the items identified as maintenance issues represent procedural changes or amendments that can create consistency between the clear and objective and discretionary review tracks, consistency with other sections of the land use code, or otherwise improve efficiency or effectiveness. They require only maintenance-level code revisions that are relatively straightforward. These maintenance level issues were not addressed as part of the working group sessions as they offer readily-available solutions that require less attention and discussion relative to the larger, more challenging issues that were discussed by the working groups. In contrast the significant issues represent core challenges identified in the clear and objective approval criteria, and solutions raise larger policy questions that will affect a range of stakeholders. Due to the limited timeframe to consider issues, and the already high demand on participant time, working group time was focused on addressing the significant issues.

The recommendations contained in this report were derived using input from the working groups, research into the issues and possible concepts, consultation with internal staff who work with the land use application review process daily, and a concept evaluation rubric for the 19 significant issues (COS-XX). For these reasons, in some cases recommendations may not reflect the apparent preference from the working group results. In these instances, an explanation for the discrepancy is provided.

The draft, proposed solutions are conceptual only. Actual code language will be crafted in the next phase of the project (Phase 3), after conceptual solutions have been vetted. This approach is designed to narrow the focus of the code writing process. Community members, the Planning Commission and City Council will be asked to review the draft code language during Phase 3. This review and feedback will help determine the finer details and appropriate amounts for implementing specific requirements. All recommendations in this report are subject to Planning Commission review and modification, and ultimately require approval by City Council in order to move ahead to Phase 3, drafting proposed code changes.

Organization of this report includes a summary table provided at the beginning of each section, followed by the following information for each issue:

Description: Includes a brief explanation of the particular key issue.

Applies to: Identifies the type of the land use application(s) that the issue applies to. Currently, there are clear and objective approval criteria for five types of land use applications: conditional use permits, site reviews, partitions, planned unit developments and subdivisions.

Existing Code Section(s): Provides the pertinent section number(s) of Eugene Code Chapter 9 (land use code).

Existing Code Language: Includes excerpts of the relevant land use code sections.

Concept Evaluation Table: Table showing the evaluation of each possible concept according to the described evaluation criteria.

Recommendation: Explains the recommended solution, including the rationale behind the recommendation. This section may also include additional background or supporting information that resulted from researching the issue and the possible concepts.

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Maintenance Issues: Summary Table of Preferred Concepts

Several identified issues represent procedural changes or amendments that would create consistency between the clear and objective and discretionary review tracks, consistency with other sections of the land use code, or otherwise improve efficiency or effectiveness. They require only maintenance-level code revisions that are relatively straightforward. These maintenance level issues were not addressed as part of the working group sessions as they offer readily-available solutions that require less attention and discussion relative to the larger, more challenging issues that were discussed by the working groups.

Maintenance Issue		Preferred Concept	Reason
COM-01	Needed Housing Criterion	For conditional use, partition, planned unit development, site review, and subdivision applications, remove criterion that requires applicant to demonstrate that the proposed housing is needed housing.	Consistency with State Law
COM-02	Applicable Standards Reference for CUPs	For conditional use, revise the language to require compliance with all applicable standards (instead of using “including but not limited to”) and add additional development standards to the list of standards, including public improvement and street standards.	Consistency with other clear and objective application types
COM-03	Bonding Requirement	For conditional use permits and site reviews, revise the timing specified to construct or bond for required public improvements to be prior to issuance of a development permit. For final planned unit developments not associated with land divisions, add a criterion, similar to that required for final subdivisions, to require that public improvements be completed or bonded prior to approval of the final application.	Effectiveness
COM-04	Overlay Zone Standards	Revise the clear and objective track approval criteria for the five application types to include compliance with the lot dimensions and density requirements in overlay zones. Use the same language provided for the discretionary track applications to require compliance with: “Lot standards of EC 9.2000 through 9.4170 regarding applicable lot dimensions and density requirements.”	Consistency with discretionary track
COM-05	Planned Unit Development Adjustment/Modification	Replace criterion that requires compliance with “all applicable development standards explicitly addressed in the application except where the applicant has shown that a modification is consistent with the purposes as set out in EC 9.8300 Purpose of Planned Unit Development” with a requirement for compliance with “all applicable development standards explicitly addressed in the application” and continue to allow for adjustment reviews.	Efficiency, Effectiveness

Maintenance Issue		Preferred Concept	Reason
COM-06	Non-Conforming Reference for ST & PT	No change	Efficiency, Effectiveness
COM-07	Access Management Requirement	Remove criterion	Efficiency, Effectiveness
COM-08	Perpendicular Lot Sides	No change	Efficiency, Effectiveness
COM-09	Natural Resource Protection Requirement	Remove Criterion	Efficiency, Effectiveness
COM-10	Solar Lot Standards	For planned unit developments, remove standard that requires compliance with solar lot standards, if subdivisions and planned unit developments are reviewed concurrently (See Issue #COM-11, below).	Consistency, Efficiency
COM-11	PUD/Subdivision Concurrent Review	Revise to allow concurrent review of tentative planned unit development and tentative subdivision or partition applications.	Efficiency
COM-12	Review Track Renaming	Rename the review tracks "Clear and Objective" (instead of Needed Housing) and "Discretionary" (instead of General). Change references to these review tracks and to "Needed Housing" throughout Chapter 9 as needed.	Consistency with State law
COM-13	Site Review Street Standards	For site reviews, add compliance with Standards for Streets, Alleys, and Other Public Ways (EC 9.6800 through 9.6875) as an approval criterion.	Consistency with discretionary track
COM-14	Duplicate Neighborhood/Applicant Meeting	Provide an exception under the neighborhood/applicant meeting requirement at EC 9.7007 for subdivisions and partitions when processed in conjunction with a planned unit development.	Efficiency
COM-15	Special Safety Requirements Reference	No change	Consistency with discretionary track
COM-16	Off-Site Bike/Ped Connections	For site reviews and conditional use, add the requirement for off-site connections for bike and pedestrian ways that already applies to partitions, planned unit developments and subdivisions.	Consistency with other clear and objective application types
COM-17	Application Requirement Criterion	No change at this time.	Effectiveness
COM-18	Does Not Hamper Provision Of Public Open Space	For subdivisions, add new criterion that requires connection to adjacent City owned park land, open space or ridgeline trail, unless Public Works Director determines such a connection is not necessary.	Consistency with discretionary track

COM-01 (NEEDED HOUSING CRITERION)

Description: Each of the five land use application types includes an approval criterion that requires the applicant to demonstrate that the proposed housing is “needed housing” as defined by State statutes.

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): EC 9.8100(1), EC 9.8220(1), EC 9.8325(1), EC 9.8445(1), EC 9.8520(1)

Existing Code Language:

- (1)** *The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.*

Recommendation: Remove criterion that requires applicant to demonstrate that the proposed housing is needed housing from the approval criteria for conditional use, partition, planned unit development, site review, and subdivision applications.

This criterion is no longer relevant, because, as a result of recent changes to State law, all housing, not just needed housing, must have access to a clear and objective review track.

Senate Bill 1051, which became effective in August 2017, amended ORS 197.307(4) to require local governments “adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing.” Previously, the statute only applied to “needed housing on buildable land.” With the revision to the statute, it is clear that all housing in Eugene is entitled to a clear and objective path to approval.

COM-02 (APPLICABLE STANDARDS REFERENCE)

Description: One of the conditional use permit approval criteria under the clear and objective track requires compliance with “all applicable standards including, but not limited to” those standards listed in the subsection. This wording is inconsistent with similar criteria for other application types, which require compliance with “all of the following” standards and include a comprehensive list of standards. In addition, the list of standards for clear and objective conditional use applications does not include several standards addressed under the discretionary track.

Applies To: Conditional Use

Existing Code Section(s): EC 9.8100(4)

Existing Code Language:

- (4)** *The proposal complies with all applicable standards, including, but not limited to:*
- (a) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.*
 - (b) EC 9.6710(6) Geological and Geotechnical Analysis.*
 - (c) EC 9.6730 Pedestrian Circulation On-Site.*
 - (d) EC 9.6735 Public Access Required.*
 - (e) EC 9.6750 Special Setback Standards.*

- (f) *EC 9.6775 Underground Utilities.*
- (g) *EC 9.6780 Vision Clearance Area.*
- (h) *EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.*
- (i) *An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.*

Recommendation: Revise the language to ensure compliance with all applicable standards, instead of “all applicable standards, *including, but not limited to.*” Add the following additional development standards to the above list at EC 9.8100(4):

- EC 9.2000 through 9.4170 regarding lot dimensions, solar standards, and density requirements for the subject zone and overlay zone;
- EC 9.6500 through 9.6505 Public Improvement Standards; and
- EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways

This project provides a valuable maintenance opportunity to address small inconsistencies between the existing clear and objective review tracks. This change will make the conditional use language consistent with the code language used in similar criteria for other review tracks. Bringing consistency between the review tracks adds clarity and avoids the need to determine whether the difference in language indicates a difference in meaning.

COM-03 (BONDING REQUIREMENT)

Description: One of the clear and objective approval criteria for conditional use permits and site reviews requires that public improvements be constructed or bonded before the application is approved. The final planned unit development criteria do not include a requirement to complete or bond for public improvements. Instead, this is listed as an application submittal requirement.

Applies To: Conditional Use, Site Review, Planned Unit Development

Existing Code Section(s): 9.8100(5), 9.8445(5), 9.8360(4)

Existing Code Language:

- (5) *Public improvements as required by this land use code or as a condition of tentative plan approval have been completed, or:*
 - (a) *A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or*
 - (b) *A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the conditional use permit, and the petition has been accepted by the city engineer.*

Recommendation: For conditional use and site review, revise the timing specified to construct or bond for required public improvements to be prior to issuance of a development permit.

For final planned unit developments not associated with land divisions, add an approval criterion to require that public improvements be completed or bonded prior to approval of the final application (similar to that required for final subdivision).

This project provides a valuable maintenance opportunity to address small inconsistencies between the existing clear and objective review tracks. Revising the criterion for conditional use and site review is recommended as the existing criterion is written for application types that go through a two-step approval process (tentative followed by final). Conditional use and site review both follow a one-step approval process and do not have a tentative plan approval phase like subdivisions or planned unit developments. The timing of this criterion is problematic as it requires that improvements be constructed or bonded at the time an application is submitted for review, when those improvements are not required or specified in the conditions of approval until issuance of the decision. It would be more accurate and effective to change the timing requirement to be prior to issuance of a development permit.

For planned unit developments, adding the approval criterion will make stand-alone planned unit development review consistent with subdivision review when public improvements are proposed or required. As brought up in COM-17, application submittal requirements are not approval criteria. Approval of an application can only be based on compliance with approval criteria. Moving this requirement from application requirements to approval criteria will be more effective at ensuring required public improvements be completed or bonded.

COM-04 (OVERLAY ZONE STANDARDS)

Description: The discretionary tracks for partitions, planned unit developments, site reviews, and subdivisions include a criterion that requires compliance with lot dimensions and density requirements in the base and overlay zones. However, the clear and objective tracks limit compliance with the lot dimensions and density requirements to the base zones, and do not explicitly require compliance with lot dimension and density requirements in overlay zones.

Applies To: Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): EC 9.8220(2)(a), EC 9.8325(7)(a), EC 9.8445(4)(a), EC 9.8520(3)(a)

Existing Code Language:

- (2)** *The proposed partition complies with all of the following:*
- (a) Lot standards of EC 9.2000 through 9.3980 regarding applicable parcel dimensions and density requirements. . .*

Recommendation: Revise the clear and objective track approval criteria for all five clear and objective application types to include compliance with the lot dimensions and density requirements in overlay zones. Use the same language provided for the discretionary track applications to require compliance with: “Lot standards of EC 9.2000 through 9.4170 regarding applicable lot dimensions and density requirements.”

This project provides a valuable maintenance opportunity to address small inconsistencies between the existing clear and objective track and the discretionary review track. This change will make the clear and objective language match the discretionary language, which is more inclusive as it includes compliance with lot dimension and density requirements in overlay zones.

COM-05 (PLANNED UNIT DEVELOPMENT ADJUSTMENT/MODIFICATION)

Description: The clear and objective track for planned unit developments include a criterion that requires compliance with “all applicable development standards explicitly addressed in the application except where the applicant has shown that a modification is consistent with the purposes as set out in EC 9.8300 Purpose of Planned Unit Development.” This criterion appears to overlap with the option to modify standards that apply to planned unit developments through an approved adjustment pursuant to EC 9.8015. EC 9.8325(7) (provided below) requires compliance with a list of standards, and also states that an “approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.” Many of the development standards are adjustable. Since an approved adjustment—according to approval criteria specific to the standard being adjusted—expressly constitutes compliance with the required standard, these subsections (7) and (11) largely overlap.

Applies To: Planned Unit Development

Existing Code Section(s): EC 9.8325(7), EC 9.8325(11)

Existing Code Language:

(7) *The PUD complies with all of the following:*

- (a) EC 9.2000 through 9.3980 regarding lot dimensions and density requirements for the subject zone. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:
 - 1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 - 2. The /WQ Management Area.*
- (b) EC 9.6500 through 9.6505 Public Improvement Standards.*
- (c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.*
- (d) EC 9.6710(6) Geological and Geotechnical Analysis.*
- (e) EC 9.6730 Pedestrian Circulation On-Site.*
- (f) EC 9.6735 Public Access Required.*
- (g) EC 9.6750 Special Setback Standards.*
- (h) EC 9.6775 Underground Utilities.*
- (i) EC 9.6780 Vision Clearance Area.*
- (j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.*

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

- (11)** *The PUD complies with all applicable development standards explicitly addressed in the application except where the applicant has shown that a modification is consistent with the purposes as set out in EC 9.8300 Purpose of Planned Unit Development.*

Recommendation: Remove the criterion at EC 9. 8325 (11) that requires compliance with “all applicable development standards explicitly addressed in the application except where the applicant has shown that a modification is consistent with the purposes as set out in EC 9.8300 Purpose of Planned Unit Development,” add

a requirement at EC 9.8325(7) that requires compliance with “all applicable development standards explicitly addressed in the application” and continue to allow adjustment reviews.

During public engagement, confusion and/or disagreement emerged around how allowing for an adjustment review process could be consistent with having a clear and objective path to approval. State law allows for an alternative discretionary process as long as an applicant retains the option of proceeding under the clear and objective process. As such, discretionary adjustment approval is allowed, because the applicant is only subject to the discretionary adjustment process when they choose this discretionary option as an alternative to meeting the clear and objective standard. Adjustment review is a valuable tool to seek an efficient and effective alternative solution when particular situations or site characteristics do not fit (or were not anticipated) in a one-sized-fits-all regulation or to allow creative proposals that meet or exceed the intent of development standards.

Subsection (11) is largely redundant with subsection (7), and it causes confusion when some standards can be adjusted and others can be modified, but by different means and metrics. Limiting the path to modify standards to the adjustment review process will provide clarity in the PUD review. In addition, the adjustment review approval criteria specifically address the standard to be adjusted, as compared to the modification, which only requires compliance with the high level purpose statement of the PUD section.

COM-06 (NON-CONFORMING REFERENCE)

Description: As part of a clear and objective partition or subdivision, new non-conforming situations must not be created, meaning that any existing dwelling or structure on the property must continue to comply with applicable development standards, such as setbacks, lot coverage, density, use and parking, after the land is divided.

Applies To: Partition, Subdivision

Existing Code Section(s): EC 9.8220(3), EC 9.8520(4)

Existing Code Language:

9.8220(3) *The proposed partition will not cause any existing improvements on proposed lots to be inconsistent with applicable standards in this land use code.*

9.8520(4) *The proposed subdivision will not cause any existing improvements on proposed lots to be inconsistent with applicable standards in this land use code.*

Recommendation: No change to existing criteria.

This issue was identified in the land use code audit as a possible change to add clarity. There are limited cases where a land division could create a new non-conforming situation (such as an existing building located closer to proposed lot lines than allowed by setbacks), and the existing criterion is sufficient to address those. Given the number of higher-priority issues to address and the absence of known problems, this issue does not merit additional consideration.

COM-07 (ACCESS MANAGEMENT REQUIREMENT)

Description: There is a clear and objective track criterion for partitions that requires compliance with access management guidelines of the agency having jurisdiction over the street.

Applies To: Partition

Existing Code Section(s): EC9.8220(4)

Existing Code Language:

- (4)** *Partitions abutting collector and arterial streets comply with access management guidelines of the agency having jurisdiction over the street.*

Recommendation: Remove criterion.

After checking with City of Eugene Public Works staff, our conclusion is that this criterion is redundant and unnecessary. This criterion pre-dates the City's adoption of access management standards, which partitions are also required to meet. Additionally, compliance with access management guidelines of other jurisdictional agencies is required under the respective agency's authority and regulations. Adding an informational item to the decision when a partition abuts collector and arterial streets under the jurisdiction of an outside agency would be simpler and just as effective.

COM-08 (PERPENDICULAR LOT SIDES)

Description: The discretionary criteria for partitions and subdivisions include a requirement that "As far as is practicable, lot side lines run at right angles to the street upon which the lots face, except that on curved streets they are radial to the curve." This requirement is not included in the clear and objective criteria.

Applies To: Partition, Subdivision

Existing Code Section(s): N/A

Existing Code Language: N/A

Recommendation: No change. (Do not add new criterion)

This issue was identified in the land use code audit as a possible change for consistency with the discretionary tracks. There are no apparent past issues or concerns with not having a clear and objective version of this criterion; therefore, it would not be efficient or effective to add a new criterion in the absence of a demonstrated need.

COM-09 (NATURAL RESOURCE PROTECTION REQUIREMENT)

Description: There is discrepancy between how the clear and objective criterion for protecting natural resource areas is written for various application types. The criterion for conditional use includes a minimum 50 foot buffer beyond the perimeter of the natural resource areas, whereas the criterion for planned unit developments, site reviews and subdivisions do not include this additional protected buffer. Additionally, this criterion is not included in the clear and objective approval criteria for partitions.

Applies To: Conditional Use, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): EC 9.8100(3)(b), EC 9.8325(4)(b), EC 9.8445(3)(b), EC 9.8520(7)(b)

Existing Code Language:

- 9.8100(3)(b)** *Natural resource areas designated on the comprehensive plan diagram as “Natural Resource” are protected. Protection shall include the area of the resource and a minimum 50 foot buffer around the perimeter of the natural resource area.*
- 9.8325(4)(b)** *Natural resource areas designated on the comprehensive plan diagram as “Natural Resource” are protected.*
- 9.8445(3)(b)** *Natural resource areas designated on the comprehensive plan diagram as “Natural Resource” are protected.*
- 9.8520(7)(b)** *Natural resource areas designated on the comprehensive plan diagram as “Natural Resource.”*

Recommendation: Remove criteria.

Currently there are only two sites formally designated as Natural Resource areas on the adopted comprehensive plan (Metro Plan) diagram. These sites, which are the “Willow Creek Natural Area” and the “Bertelsen Nature Park,” are already effectively protected by way of public ownership and long-term management for natural resource values, as well as through other land use regulations. More specifically, the sites are designated for protection as high value wetlands in the West Eugene Wetlands Plan, with /WB Wetland Buffer zoning overlays that provide 100-foot development setbacks and use regulations, making these land use application approval criteria superfluous and redundant. As such, these criteria should be removed for the sake of efficiency and to eliminate regulatory redundancy.

COM-10 (SOLAR LOT STANDARDS)

Description: The solar lot standards apply to the creation of lots within subdivisions in the R-1 Low Density Residential and R-2 Medium Density Residential zones. Compliance with the solar lot standards is specifically called out as an approval criterion in the clear and objective track for tentative planned unit developments, even though standards apply at the time of subdivision (when the lots are created). This ensures that any lot layout proposed in a planned unit development will be consistent with the solar lot standards at the time of subdivision, as planned unit developments and subdivisions cannot currently be reviewed concurrently.

Applies To: Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.8325(10), EC 9.8520(3)(a), EC 9.2790

Existing Code Language:

- 9.8325(10)** *Lots proposed for development with one-family detached dwellings shall comply with EC 9.2790 Solar Lot Standards (these standards may be modified as set forth in subsection (11) below).*
- 9.8520(3)** *The proposed subdivision complies with all of the following, unless specifically exempt from*

compliance through a code provision applicable to a special area zone or overlay zone:

(a) EC 9.2000 through 9.3980 regarding lot dimensions and density requirements for the subject zone. . .

9.2790 Solar Lot Standards.

- (1) **Applicability.** Solar lot standards apply to the creation of lots within subdivisions in R-1 and R-2 zones.
- (2) **Solar Lot Requirements.** In R-1 and R-2, at least 70% percent of the lots in a subdivision shall be designed as "solar lots" and shall have a minimum north-south dimension of 75 feet and a front lot line orientation that is within 30 degrees of the true east-west axis. For purposes of this subsection, a lot proposed for more than one dwelling unit shall count as more than one lot, according to the number of units proposed (e.g. a lot proposed for a fourplex shall be considered 4 lots). **(See Figure 9.2790(2) Solar Lot Requirements.)**

Recommendation: Remove standard from planned unit development approval criteria (EC 9.8325(10)) based on related recommendation to allow tentative subdivisions and tentative planned unit development reviews concurrently (see issue # COM-11).

Solar lot standards only apply to the creation of lots within subdivisions in the R-1 Low-Density Residential and R-2 Medium-Density Residential zones. Without concurrent review for subdivisions and planned unit developments, as is currently the process, the requirement in the planned unit development criteria is intended to ensure that the lot layout approved in the tentative PUD will be approvable under the tentative subdivision. While the solar lot standards do not apply directly to PUDs, having this criterion makes sense given the order of application processing, i.e., tentative planned unit development followed by tentative subdivision. If the recommendation to allow concurrent review of tentative planned unit developments and tentative subdivisions is implemented, then the need for this criterion under the planned unit development will no longer exist; therefore, removal is recommended if the concurrent review option is implemented.

COM-11 (PUD/SUBDIVISION CONCURRENT REVIEW)

Description: Planned unit developments are a two-step process (tentative, followed by final). When there is an associated land division (subdivision or partition) to create new lots, the tentative planned unit development must be finalized prior to submittal of the tentative partition or subdivision. (EC 9.8205 and 9.8505) Together this means three stages of review for many developments: tentative planned unit development review, followed by final planned unit development and tentative subdivision or partition plan review combined, and finally, review of the final subdivision or partition plan.

Applies To: Partition, Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.8205, EC 9.8505

Existing Code Language:

- 9.8205 Applicability of Partition, Tentative Plan Applications.** Requests to create 2 or 3 parcels shall be subject to the partition provisions of this land use code, following a Type II application procedure. A partition application that also involves a PUD request may not be submitted until a decision on the tentative PUD approval is final. (Refer to EC 9.8305 Applicability.) No

development permit shall be issued by the city prior to approval of the tentative partition application.

9.8505 **Applicability of Subdivision, Tentative Plan Applications.** *Requests to create 4 or more lots shall be subject to the subdivision provisions of this land use code under a Type II application process. A subdivision application that also involves a PUD request may not be submitted until a decision on the tentative PUD approval is final. (Refer to EC 9.8305 Applicability.) No development permit shall be issued by the city prior to approval of the subdivision tentative plan application.*

Recommendation: Revise code to allow concurrent review of tentative planned unit development and tentative subdivision or partition applications.

This issue was brought up in the land use code audit, by staff and by stakeholders. The criteria for tentative planned unit development and land divisions have significant overlap and it is feasible that they be reviewed concurrently. Allowing concurrent review would add efficiency to the process when both application types are required. The current order of operations involves tentative PUD approval followed by tentative subdivision or partition concurrent with final PUD, then review of the final subdivision or partition. A concurrent review would consolidate this process into two stages of review. Additionally, the recommendation for the previous issue, COM-10, is related to this proposed change as allowing concurrent review would eliminate the need for a criterion in the PUD track that is solely necessary to prevent tentative PUD approval of a lot configuration that might not meet all subdivision requirements. Concurrent review would prevent that outcome. Allowing concurrent review would provide added efficiency for applicants, promote more efficient use of staff resources and provide clarity for interested parties.

COM-12 (REVIEW TRACK RENAMING)

Description: Using the terms "Needed Housing" and "General" to identify the "Clear and Objective" track and the "Discretionary" track, respectively, is confusing now that State law mandates that all housing (not just needed housing) is entitled to clear and objective standards, conditions and procedures.

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): Multiple code references will need to be revised. Example provided below for EC 9.8220.

Existing Code Language:

Partition, Tentative Plan Approval Criteria- Needed Housing. *The planning director shall approve, conditionally approve, or deny the partition application. Unless the applicant elects to use the general criteria contained in EC 9.8215 Partition, Tentative Plan Approval Criteria- General, where the applicant proposes needed housing, as defined by the State statutes, the planning director shall approve or approve with conditions a partition based on compliance with the following criteria:*

Recommendation: Rename the review tracks "Clear and Objective for Housing" (instead of Needed Housing) and "Discretionary" (instead of General). Change references to these review tracks and to "Needed Housing" throughout Chapter 9 as needed.

State law now mandates that all housing—not just needed housing—is entitled to clear and objective standards, conditions and procedures. Considering this change in State law, calling the State mandated clear and objective

review track “needed housing” is confusing. Renaming the tracks “Clear and Objective for Housing” and “Discretionary,” respectively, will add consistency with State law and clearly identify the separate review options.

COM-13 (SITE REVIEW STREET STANDARDS)

Description: The clear and objective criteria for site review does not include compliance with the Standards for Streets, Alleys, and Other Public Ways (EC 9.6800 through 9.6875); however, it is included under the discretionary track.

Applies To: Site Review

Existing Code Section(s): N/A

Existing Code Language: N/A

Recommendation: Add compliance with Standards for Streets, Alleys, and Other Public Ways (EC 9.6800 through 9.6875) as an approval criterion for site reviews.

Adding a criterion to the clear and objective site review track to require compliance with EC 9.6800 through 9.6875 Standards for Streets, Alleys, and Other Public Ways will provide consistency between the discretionary and clear and objective tracks for site review applications.

COM-14 (DUPLICATE NEIGHBORHOOD/APPLICANT MEETING)

Description: A second neighborhood/applicant meeting is required for tentative subdivisions or partitions in cases when one was already required for an associated tentative planned unit development.

Applies To: Partition, Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.7007

Existing Code Language:

9.7007

Neighborhood/Applicant Meetings.

- (1) *This section applies to the following types of applications:*
 - (a) *Type II: 3-lot partitions, tentative subdivisions, tentative cluster subdivisions and design reviews;*
 - (b) *Type III: Only conditional use permits and tentative planned unit developments;*
 - (c) *Type IV applications that are not city-initiated;*
 - (d) *Metro Plan amendments that are not city-initiated.*
 - (e) *Within the /CL Clear Lake Overlay zone: development permits for a new building, change of use, building expansion that exceeds 25 percent of the existing building square footage on the development site, and land use applications (except Type I applications).*
- (2) *Prior to the submittal of an application listed in subsection (1) above, the applicant*

shall host a meeting for the surrounding property owners. The purpose of this meeting is to provide a means for the applicant and surrounding property owners and residents to meet to review the proposal, share information and identify issues regarding the proposal. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.

- (12)** *Applications shall be submitted to the city within 180 days of the neighborhood/applicant meeting. If an application is not submitted in this time frame, or if the site plan submitted with the application does not substantially conform to the site plan provided at the meeting, the applicant shall be required to hold a new neighborhood/applicant meeting.*

Recommendation: Provide an exception under the neighborhood/applicant meeting requirement at EC 9.7007 for subdivisions and partitions when processed in conjunction with a planned unit development.

The requirement for a separate neighborhood/applicant meeting for partitions and subdivisions that are implementing a site plan approved through the tentative planned unit development process is redundant and unnecessary. The purpose of the neighborhood/applicant meeting is to “provide a means for the applicant and surrounding property owners and residents to meet to review the proposal, share information and identify issues regarding the proposal. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.”

In the circumstance where a land division is implementing a site plan that already has tentative planned unit development approval, the land division must be consistent with the approved tentative planned unit development, which has already held a neighborhood/applicant meeting and public hearing process. Removing the requirement for a second meeting would promote efficiency in the development process.

Note that if the recommendation to allow concurrent review of tentative planned unit development and tentative land division is implemented (see COM-11), then the need for this proposed change may no longer exist.

COM-15 (SPECIAL SAFETY REQUIREMENTS REFERENCE)

Description: Partitions, planned unit development, and subdivisions require compliance with EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways; however, housing projects reviewed under clear and objective tracks are exempt from one of the standards within that range (EC 9.6845, Special Safety Requirements).

Applies To: Partition, Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.8220(2)(b), EC 9.8325(6)(a), EC 9.8520(3)(b), EC 9.6845

Existing Code Language:

9.8220(2) *The proposed partition complies with all of the following:*

(b) EC 9.6800 through EC 9.6875 *Standards for Streets, Alleys, and Other Public Ways.*

9.6845 ***Special Safety Requirements.*** *Except for applications proposing needed housing, where necessary to insure safety, reduce traffic hazards and promote the welfare of the general public, pedestrians, bicyclists and residents of the subject area, the planning director or public works director may require that local streets and alleys be designed to discourage their use by non-local motor vehicle traffic and encourage their use by local motor vehicle traffic, pedestrians, bicyclists, and residents of the area.*

Recommendation: No change.

This issue was identified in the land use code audit as a possible change to add clarity. The standard within the referenced range that does not apply to proposals using the clear and objective track clearly states the exception. Given the number of higher-priority issues to address, the absence of known problems related to this issue, and the desire to keep consistency between the two tracks were possible, staff suggests that this issue does not merit additional consideration.

COM-16 (OFF-SITE BIKE/PED CONNECTIONS)

Description: Bike and pedestrian circulation/connectivity is not addressed for conditional use and site review under the clear and objective tracks. In contrast, partitions, planned unit developments, and subdivisions require connections to "nearby" residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.

Applies To: Conditional Use, Site Review

Existing Code Section(s): N/A

Existing Code Language: N/A

Recommendation: Add a clear and objective criterion to require off-site connections for bike and pedestrian ways to site review and conditional use permit, similar to partitions, planned unit developments and subdivisions.

Adding the same criterion as used in partitions, planned unit developments, and subdivisions will increase consistency among the clear and objective review tracks and improve effectiveness in addressing bike and pedestrian circulation and connectivity for these application types.

COM-17 (APPLICATION REQUIREMENT CRITERION)

Description: Application submittal requirements are not required to be met as part of the approval of an application.

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): N/A

Existing Code Language: N/A

Recommendation: No change at this time — requires more investigation.

Adding an approval criterion to each application type that requires that all application submittal requirements have been met is a good idea and may be beneficial for both review tracks. However, this would require more in-depth analysis of existing application requirements to ensure that no unintended consequences occur when making them mandatory approval criteria. While the scope and timing of this land use code update process limit the ability to address this issue now, it is strongly suggested for consideration as part of future code improvement efforts.

COM-18 (DOES NOT HAMPER PROVISION OF PUBLIC OPEN SPACE)

Description: The clear and objective track for subdivisions does not have an equivalent requirement to "not hamper" provision of public open space as found in the discretionary track.

Applies To: Subdivision

Existing Code Section(s): N/A

Existing Code Language: N/A

Recommendation: For subdivisions, add a new clear and objective criterion that requires connection to abutting city owned park land, open space or ridgeline trail (provided constitutional findings can be made) unless the Public Works Director determines such a connection is unnecessary.

Adding a new criterion addressing access to public open space would improve consistency with the discretionary track. City of Eugene Parks and Open Space staff were consulted regarding the existing discretionary track criterion. They noted that while this criterion is not useful for park acquisition, it can be useful when a bike/pedestrian connection is needed to connect the overall park and passive transportation system. This could apply to land next to the river that is not yet connected to the river path system, connections through the South Hills, either from park to park or from parks to the Ridgeline Trail, or connections from a subdivision to adjacent park lands.

Significant Issues: Evaluation Criteria

Items identified as “significant” are key issues that raise potential policy implications and were the items brought to working groups for discussion. The Clear & Objective Significant items are organized in numerical order.

Each issue includes a table of the possible concepts that were presented at the working groups, and also placed in online surveys available to all interested parties. The possible concepts were generated by staff to seed working group conversations and stakeholders were also encouraged to suggest possible concepts. In the table, each of the possible concepts is evaluated based on evaluation criteria and the level of support expressed in stakeholder responses. Evaluation criteria include the following:

- Efficiency – *Does the concept reduce or mitigate existing land use code barriers to housing development? Does the concept support reasonable and predictable development of buildable lands for housing?*
- Effectiveness – *Does the concept effectively address the identified issue? Does the concept address public health & safety, natural resource protection, and neighborhood livability?*
- Technical Feasibility – *Is it easy to implement the concept? Is it realistic, practical and prudent?*
- Social Equity (Triple Bottom Line) – *Does it promote positive community relationships, effective government, social justice and overall livability? Does it have equitable impacts on community members (vulnerable populations, specific neighborhoods, distinct groups, other)?*
- Environmental Health (Triple Bottom Line) – *Does it have a positive effect on environmental health and our ability to effectively address climate change?*
- Economic Prosperity (Triple Bottom Line) – *Does it have a positive effect on the local economy and minimize costs to the community, now and over the long term? Does it support responsible stewardship of public resources?*

In evaluating the concepts according to these criteria, the following scale was used:

+	promotes – the concept promotes a positive impact based on the specific evaluation criterion
O	neutral – the concept either has no affect or no net positive impact based on the specific evaluation criterion
–	inhibits – the concept has an inhibiting affect based on the specific evaluation criterion

As used to depict the level of stakeholder support, the scale can be interpreted as follows:

+	promotes – strong support, no or low opposition
O	neutral – neutral support or roughly equivalent support and opposition
–	inhibits – no or low support, strong opposition

Significant Issues: Summary Table of Preferred Concepts

Significant Issue		Preferred Concept	Reason
COS-01	Clear & Objective Compatibility	Add compatibility criterion to site reviews, conditional use and planned unit development applications that applies to higher-intensity development abutting lower intensity development — include transition buffers (setbacks, height limitation areas, and landscape screening) that are scalable	Effectiveness, Consistency
COS-02	30-Foot Buffer Requirement For PUDs	Replace with new criterion from COS-01	Efficiency, Effectiveness
COS-03	20 Percent Slope Grading Prohibition	Remove and rely on COS-13	Efficiency, Effectiveness
COS-04	One Acre Accessible Open Space For PUDs	Revise required distance from open space from ¼ mile to ½ mile and make onsite requirement scalable	Efficiency, Effectiveness
COS-05	Limitation Over 900 Feet For PUDs	Revise to allow less intensive development above 900' (2.5 units/acre) and include more stringent tree/vegetation preservation requirements	Efficiency, Effectiveness
COS-06	Ridgeline Setback For PUDs	Revise to make setback applicable to areas above 900' elevation.	Efficiency, Effectiveness
COS-07	40 Percent Open Space Requirement For PUDs	Revise to 30% and clarify language based on intent of relevant South Hills Study policy	Efficiency, Effectiveness
COS-08	Emergency Response	Add criterion to require letter from Fire Marshal's office stating that project complies with Eugene Fire Code for site reviews, conditional use and planned unit development applications; apply criterion to partitions and subdivisions per COS-14	Efficiency, Effectiveness
COS-09	Conditional Use Requirement	Keep process, add compatibility criterion from COS-01	Effectiveness
COS-10	Partition Tree Preservation	Remove criterion	Efficiency, Consistency
COS-11	Tree Preservation Consideration	Add criterion that requires minimum preservation and mitigation and implement a rating scale that takes into account tree type, health, size and location.	Effectiveness
COS-12	Site Review Requirement	Keep process, add compatibility criterion from COS-01	Effectiveness
COS-13	Geotechnical Requirement	Revise existing criterion to address additional risk factors	Efficiency, Effectiveness
COS-14	19 Lot Rule—Motor Vehicle Dispersal	Rely on COS-08 (apply COS-08 to partitions and subdivisions)	Efficiency, Effectiveness
COS-15	Traffic Impact	Defer to Public Works Transportation project getting underway	Effectiveness
COS-16	PUD Type III Process	Hold for future land use code improvement project	Efficiency
COS-17	Does Not Hamper Provision Of Public Open Space	Moved to COM-18	Effectiveness
COS-18	Arborist And Landscape Architect Requirement	No change (Continue to require arborist on PUD design team)	Efficiency
COS-19	Street Standards Modifications	Add clear exceptions and add adjustment option	Efficiency
COS-20	Pedestrian Definition	Use ORS definition with minor refinement	Effectiveness

COS-01 (CLEAR & OBJECTIVE COMPATIBILITY)

Description: Unlike the discretionary tracks, the clear and objective tracks for conditional use and site review applications do not address compatibility, including the need to address transitions or buffers between different uses or zones. Planned unit developments include a 30 foot wide landscaped buffer requirement (see COS-02) but this may not be a preferred strategy to enhance compatibility between properties, or an efficient use of land.

Applies To: Conditional Use, Planned Unit Development, Site Review

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	○	–	+	–	○	○	–
B. Develop requirement for transition buffers (screening, height step backs, setbacks) when higher intensity uses are proposed near lower intensity uses (e.g., multi-family next to single-family)	○	+	+	+	+	○	+
C. Develop minimum transition buffers around the perimeter for all conditional use, planned unit development, and site review projects regardless of size or use	○	+	+	○	+	○	–
D. Develop scalable transition buffers around the perimeters for all conditional use, planned unit development, and site review projects that are proportional to the size of the development site	○	+	+	+	+	○	+
+ promotes ○ neutral – inhibits							

Recommendation: Add a compatibility criterion that applies to higher-intensity development abutting lower-intensity development (e.g. multi-family development adjacent to single family development in R-1 Low Density Residential zone). (Options B and D) Employ scalable transition buffers that may include:

- setbacks
- height step-downs
- landscape screening requirements

There was strong support from stakeholders to add a compatibility criterion to the clear and objective tracks for conditional use, planned unit development and site review. While the strongest support was for option B, option

D also received moderate support, and a combination of B and D was strongly preferred in feedback from the working group open house. The two options rated identically in evaluation.

To best support compact urban development, while protecting and enhancing neighborhood livability and natural resources, combining options B and D is recommended. The clear and objective review track currently does not have a means to address compatibility impacts and implementing these concepts would improve effectiveness. To promote efficient use of our buildable land supply, and in line with stakeholder support, it is recommended that the compatibility criterion apply only when separating different-intensity uses (such as between multi-family and single family) and be scaled so that smaller infill developments are not disproportionately burdened. This would support compatibility with emphasis on gradual transitions to lower intensity uses and efficient use of space.

Transitional buffering would be accomplished using increased building setbacks, height step-downs (a reduction in building height as a means of transitioning between the higher and lower intensity uses), and required landscape screening. This will require drafting new code language to guide specific application of the requirements, which will require moderate time (relative to a simpler code revision) but is technically feasible and offers significant benefit to the community if implemented. In addition, there are three related issues that are affected by the outcome of this issue — COS-02 (30-Foot Buffer Requirement for PUDs), COS-09 (Conditional Use Requirement) and COS-12 (Site Review Requirement). If this recommendation is implemented, then replacing the existing 30-foot buffer requirement for planned unit developments with this criterion is also recommended. It would also improve effectiveness of the conditional use track as currently it largely points to general development standards that do not address compatibility.

COS-02 (30-FOOT BUFFER REQUIREMENT FOR PUDs)

Description: The clear and objective approval criteria for planned unit developments require a 30-foot wide landscape buffer between a new planned unit development and surrounding properties. This may not be a preferred strategy to enhance compatibility between properties, or an efficient use of land. Where a planned unit development for single-family housing provides a buffer from existing single-family housing properties, it is not clear that there are significant differences between residential development within the planned unit development and the surrounding residential area to warrant buffering over and above the typical setbacks for the residential zones (typically 5 feet). The 30-foot buffer may instead isolate the planned unit development, making it less compatible and less integrated into the neighborhood. Dedication of a 30-foot perimeter buffer requires a large amount of land, and a disproportionate amount of land on smaller and/or narrow sites, significantly decreasing development potential by putting land into a buffer that could otherwise be developed with housing.

Applies To: Planned Unit Development

Existing Code Section(s): EC9.8325(3)

Existing Code Language:

- (3)** *The PUD provides a buffer area between the proposed development and surrounding properties by providing at least a 30 foot wide landscape area along the perimeter of the PUD according to EC 9.6210(7).*

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	–	○	+	–	+	○	–
B. Reduce the required landscape buffer to a lower set amount (such as 10 feet) and clarify where buffer is required (such as not along a street)	+	○	+	○	+	○	–
C. Require scalable buffer--smaller buffer for smaller development sites and clarify where buffer is required (such as not along a street)	+	+	+	+	+	○	○
D. Require buffer (30 foot or smaller) only to separate uses of different intensities (e.g., multi-family next to single-family) and clarify where buffer is required (such as not along a street)	+	+	+	+	+	○	+
E. Eliminate and rely on new compatibility criteria (transition buffer) implemented by COS-01	+	+	+	+	+	○	+
+ promotes ○ neutral – inhibits							

Recommendation: Replace with new compatibility criterion proposed under COS-01 Clear and Objective Compatibility. (Option E)

➡ This issue is one of six related to the clear and objective criteria for planned unit development that contribute to limiting development feasibility of many sites. The cumulative effect of these six requirements is particularly limiting for those properties subject to the South Hills Study and additional criteria at EC 9.8325(12). The six criteria include the 30-foot buffer, 20% slope grading limitation, one-acre accessible open space, South Hills Study limitation over 900 feet, 300-foot ridgeline setback, and 40% common open space and clustering. (See related Issues COS-03, COS-04, COS-05, COS-06 and COS-07)

Requiring a 30-foot buffer around all sites subject to a planned unit development inhibits compact urban development, especially when applied to smaller infill developments. The discretionary track does not contain a similar requirement as it more specifically addresses the compatibility impacts that this requirement is intended to alleviate. While a 30-foot setback may be somewhat effective in some situations, in many instances the developments that go through the planned unit development process are subdivisions that require the planned unit development due to an overlay zone or their location. In these cases, what would otherwise be a standard five-foot residential setback between neighboring low-density properties along the border of the development site must be 30-feet. In recognition of this and the disproportionate impacts on smaller development sites, stakeholders supported retaining a scalable buffer criterion related to planned unit developments (PUD) when a new development of higher intensity is proposed near lower intensity uses or zones (i.e. multi-family next to single-family). A combination of support for C and D was expressed as well as E which would rely on the new criterion from issue # COS-01 to address compatibility. Given the similarity in the direction on COS-01—to apply specifically in transitions between different intensity developments and be scalable—replacing this criterion with the new compatibility criterion will promote both efficiency (eliminate a criterion that is a blunt effort to address compatibility in a clear and objective manner) and effectiveness (the new criterion will more specifically and effectively address compatibility impacts).

DRAFT

COS-03 (20 PERCENT SLOPE GRADING PROHIBITION)

Description: The clear and objective track for planned unit development and subdivision approval includes a requirement that prohibits grading on slopes that meet or exceed 20 percent. This may not be the most effective and efficient way to address potential impacts to steep slopes. It may have the effect of precluding development under the clear and objective track for sites with significant slopes, particularly for properties subject to the South Hills Study, or sites with unusual configurations where a portion of the site over 20 percent slope prevents the development potential of the remainder under the clear and objective track. There is no maximum slope where grading is prohibited under the discretionary track, and slope impacts are reviewed through a geological report. State standards presume that up to 25 percent slopes are developable for purposes of calculating buildable lands for development (OAR 660-008-0005(5)), and Eugene's Buildable Lands Inventory (BLI) classifies lands up to 30 percent slopes as potentially developable.

Applies To: Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.8325(5), EC 9.8520(5)

Existing Code Language: (Planned Unit Development only provided below)

9.8325(5) *There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.*

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	–	–	+	○	○	–	–
B. Increase percentage limit to 25% or 30%	–	–	+	○	○	–	○
C. Retain 20% grading prohibition, but exempt certain grading activities. Codify how slope is measured (e.g., using 2' contours over a minimum run of 10)	–	–	+	○	○	–	–
D. Eliminate 20% grading prohibition and rely on geotechnical review requirements that ensure development will not impact geological stability, or that any impacts will be mitigated	+	+	+	+	○	+	+
E. Replace with new requirement to address soil erosion and slope failure	+	○	○	+	○	○	–
+ promotes ○ neutral – inhibits							

Recommendation: Eliminate the existing criterion and rely on the geotechnical requirements. Ensure that revisions to the geotechnical requirements proposed under COS-13 (Geotechnical Requirement) address

impacts and mitigation requirements related to slope stability in the context of road layout and lot locations. (Option D)

➤ This issue is one of six related to the clear and objective criteria for planned unit development that contribute to limiting development feasibility of many sites. The cumulative effect of these six requirements is particularly limiting for those properties subject to the South Hills Study and additional criteria at EC 9.8325(12). The six criteria include the 30-foot buffer, 20% slope grading limitation, one-acre accessible open space, South Hills Study limitation over 900 feet, 300-foot ridgeline setback, and 40% common open space and clustering. (See related Issues COS-03, COS-04, COS-05, COS-06 and COS-07)

A provision based on a particular slope (such as 20%, or 30%) does not account for other relevant factors such as historic landslide information, depth and type of soil, soil moisture and drainage characteristics. These risk factors may actually limit development on less steep slopes; therefore the existing prohibition is likely ineffective as well as inefficient—it limits development where it may be feasible and may not address other relevant risks. Stakeholder support was strongest for D, which would require site specific analysis for each development under the geotechnical requirements. This option has the greatest potential to ensure appropriate siting, construction, and development practices are used to mitigate potential risks of slope failure. Minor revisions proposed under COS-13 (Geotechnical Requirement) will increase its effectiveness by adding additional risk factors and clarifying that the certification from the licensed engineer must address proposed lot and road locations.

COS-04 (ONE ACRE ACCESSIBLE OPEN SPACE FOR PUDs)

Description: The clear and objective planned unit development criterion that requires open space to be located within ¼ mile of the site can limit development to sites near existing open spaces such as public parks, which may reduce those areas of the city that can be developed under the clear and objective track. Sites that have to provide open space internal to the development to satisfy this criterion may lose a significant amount of land due to the one-acre minimum requirement. This decreases housing development potential of the site and affects smaller sites disproportionately. This criterion might not be the most effective and efficient way to ensure access to recreation and open space for residents.

Applies To: Planned Unit Development

Existing Code Section(s): 9.8325(9)

Existing Code Language:

- (9) All proposed dwellings within the PUD are within 1/4 mile radius (measured from any point along the perimeter of the development site) of an accessible recreation area or open space that is at least 1 acre in size and will be available to residents.

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	–	–	+	–	o	–	–
B. Adjust the maximum distance requirement based on review of location of public parks/schools. List what qualifies as accessible recreation area or open space (i.e. private open space, public park, schools)	+	+	+	o	o	o	+
C. Revise to scale requirements based on average lot sizes or density (i.e. require more open space for higher density projects)	+	+	+	+	o	+	+
E. Eliminate and rely on existing lot coverage requirements for single-family development in the R-1 zone (50%) and open space requirements for multi-family developments (20% of development site)	+	–	+	–	o	o	o
E. Eliminate if mapping justifies that most vacant and partially vacant properties are generally within ¼ mile from open space	+	+	+	o	o	o	–
+ promotes o neutral – inhibits							

Recommendation: Revise the required distance from existing public open space from $\frac{1}{4}$ mile to $\frac{1}{2}$ mile and use a scalable requirement for the onsite open space provision for proposed developments that are over $\frac{1}{2}$ mile from public open spaces like parks and schools. (Options B and C)

➡ This issue is one of six related to the clear and objective criteria for planned unit development that contribute to limiting development feasibility of many sites. The cumulative effect of these six requirements is particularly limiting for those properties subject to the South Hills Study and additional criteria at EC 9.8325(12). The six criteria include the 30-foot buffer, 20% slope grading limitation, one-acre accessible open space, South Hills Study limitation over 900 feet, 300-foot ridgeline setback, and 40% common open space and clustering. (See related Issues COS-03, COS-04, COS-05, COS-06 and COS-07)

Maps provided to working groups showed Eugene's Buildable Lands Inventory overlaid with $\frac{1}{4}$ mile radii from existing schools, parks and open space revealed that several parts of Eugene already meet this requirement. However, some areas exist where only smaller undeveloped or underdeveloped lands remain, in which case the one-acre onsite open space requirement is onerous. Stakeholders mostly supported options B and C, and while a hybrid option was not discussed, a combination of both concepts is technically feasible and more efficient and effective than either option on its own. This direction is consistent with City of Eugene Parks and Open Space guidelines which strive to provide neighborhood parks $\frac{1}{4}$ - to $\frac{1}{2}$ - mile from all properties (roughly a five to ten minute walk). For underserved areas, allowing a scalable on-site open space requirement would address the need for residents to have convenient access to open space without posing a barrier to development, especially for smaller sites, and better promoting compact urban development.

COS-05 (LIMITATION OVER 900 FEET FOR PUDs)

Description: The clear and objective planned unit development criterion that limits development on land above an elevation of 900 feet to one dwelling on lots in existence as of August 1, 2001 significantly limits development feasibility of sites.

Applies To: Planned Unit Development

Existing Code Section(s): EC 9.8325(12)(a)

Existing Code Language:

- (12)** For any PUD located within or partially within the boundaries of the South Hills Study, the following additional approval criteria apply:
- (a) No development shall occur on land above an elevation of 900 feet except that one dwelling may be built on any lot in existence as of August 1, 2001.

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	–	–	+	o	+	o	o
B. Revise to add language similar to COS-06, to allow for development if the City Manager determines that the property is not needed for park land or connection to the ridgeline.	+	–	+	o	o	o	–
C. Revise to allow less intensive development (i.e. lower density) above 901 feet	+	+	+	o	o	o	o
D. Eliminate -- intent met through City acquisition of ridgeline park land within the urban growth boundary, and existing density limits (5 dwellings per acre east of Friendly Street and 8 per acre west of Friendly) ensure that intense development will not occur	+	–	+	o	o	o	o
+ promotes o neutral – inhibits							

Recommendation: Revise to allow less intensive development (limit density to 2.5 units per acre) above 900 feet elevation and include additional tree /vegetation preservation requirements to more effectively address relevant South Hills Study policy language. (Option C with refinements)

➡ This issue is one of six related to the clear and objective criteria for planned unit development that contribute to limiting development feasibility of many sites. The cumulative effect of these six requirements is particularly limiting for those properties subject to the South Hills Study and additional criteria at EC 9.8325(12). The six criteria include the 30-foot buffer, 20% slope grading limitation, one-acre accessible open space, South Hills

Study limitation over 900 feet, 300-foot ridgeline setback, and 40% common open space and clustering. (See related Issues COS-03, COS-04, COS-05, COS-06 and COS-07)

The feedback from stakeholders related to this standard was mixed, with the exception of option B which received no support. There is interest in ensuring that the visual integrity of the south hills is retained, and that space for public recreation is preserved along the ridgeline, as the south hills are a visual and recreational amenity benefiting the entire community. Through the Envision Eugene process and Urban Growth Boundary (UGB) expansion additional residential land was not brought into Eugene's UGB. Based on existing patterns of development, vacant and partially vacant land over 900 feet was assumed to support development at a density of 2.5 units per acre, based on a review of past development. This is a lower intensity than allowed in the south hills area below 900 feet and in low density residential zones city-wide—west of Friendly Street 8 units per acre is allowed, east of Friendly Street 5 units per acre are allowed, and in the R-1 Low-Density Residential zone generally 14 units per acre are allowed.

The Summary and Recommendations from the South Hills Study (1974) acknowledge the area between the then city limits and the ridgeline for future growth: *"Since there is adequate area already within the city limits to accommodate presently anticipated growth, the property remaining between the city and the ridgeline is particularly valuable as a safeguard in the event actual growth exceeds present expectations. In this sense, that property represents a contingency reservoir which should only be utilized in case of need."* At the time the study was written, this area was mostly undeveloped, "a substantial amount of the property presently within the city limits of the south hills area remains vacant" and the existing ridgeline trail system had not yet been acquired. This particular limitation to development near the ridgeline appears to come from policy related to the ridgeline park:

That all vacant property above an elevation of 901' be preserved from an intensive level of development, subject to the following exceptions:

1. *Development of individual residences on existing lots; and*
2. *Development under planned unit development procedures when it can be demonstrated that a proposed development is consistent with the purposes of this section.*

The purpose section provides as follows:

The south hills constitute a unique and irreplaceable community asset. The strong dominant landforms and wooded character present there combine to provide distinct areas of contrast in terms of texture and color from the normal pattern of urban development. By virtue of this contrast, the south hills function as a strong visual boundary or edge for the city. The ridgeline of the south hills also marks the most southerly extension of the urban services areas. Further, there are areas within the south hills that are especially suitable for park sites for recreational use by present and anticipated population. In view of these factors, any areas recommended for preservation or park usage should serve one of the following purposes:

1. *To ensure preservation of those areas most visibly a part of the entire community;*
2. *To protect areas of high biological value in order to provide for the continued health of native wildlife and vegetation;*
3. *To ensure provision of recreational areas in close proximity to major concentrations of population;*
4. *To provide connective trails between major recreational areas;*
5. *To provide connective passageways for wildlife between important biological preserves;*

6. *To contribute to Eugene's evergreen forest edge; and*
7. *To provide an open space area as a buffer between the intensive level of urban development occurring within the urban service area and the rural level of development occurring outside the urban service area.*

It is worth noting that the current criterion does not address the second part of this recommendation. The South Hills Study authors considered major subdivisions and planned unit developments “an intensive level of development.” Still, part 2 of the recommendation allows for both under the planned unit development procedures. The intentions of the recommendations appear to be to ensure the City’s ability to acquire park land as the hills developed, to guide the selection of park lands, and to require private areas proposed for preservation through the planned unit development process to serve similar purposes as those expected for potential park land.

As shown in Eugene’s Parks and Recreation System Plan, there are no remaining ridgeline sites identified for acquisition within the UGB. However, factors such as view potential, geological stability, and biological value remain reasons to prevent “an intensive level of development” in higher elevation areas. Precedent exists to assist in defining that intensity threshold. Development has been occurring under planned unit development review at an average of the recommended 2.5 units per acre. In addition to applying a lower density limitation to areas above 901’, other restrictions could be used to further promote the revised criterion’s effectiveness. Limits on the allowable building footprint, building height, and vegetation removal could help insure “maximum preservation of the natural character of the south hills” and “adequate review of the public consequences of development in the south hills” consistent with the intent of the study.

COS-06 (RIDGELINE SETBACK FOR PUDs)

Description: The clear and objective planned unit development track includes a requirement for a 300-foot setback from the ridgeline for properties within the South Hills Study. This can impact residential development feasibility of subject sites by reducing site area that may be developed. This is especially impactful on smaller sites.

Applies To: Planned Unit Development

Existing Code Section(s): 9.8325(12)(b)

Existing Code Language:

- (12)** For any PUD located within or partially within the boundaries of the South Hills Study, the following additional approval criteria apply:
- (b)** Development shall be setback at least 300 feet from the ridgeline unless there is a determination by the city manager that the area is not needed as a connection to the city's ridgeline trail system. For purposes of this section, the ridgeline trail shall be considered as the line indicated as being the urban growth boundary within the South Hills Study plan area.

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	–	–	+	–	○	○	+
B. Reduce setback requirement to a lesser amount	+	–	+	○	○	○	–
C. Revise to make the setback requirement scalable based on the size of the development site (smaller setback for smaller sites)	+	–	+	+	○	+	○
D. Eliminate -- intent met through City acquisition of ridgeline park land within the urban growth boundary	+	○	+	○	○	○	○
+ promotes ○ neutral – inhibits							

Recommendation: Revise to make setback applicable to areas above 900' elevation.

➡ This issue is one of six related to the clear and objective criteria for planned unit development that contribute to limiting development feasibility of many sites. The cumulative effect of these six requirements is particularly limiting for those properties subject to the South Hills Study and additional criteria at EC 9.8325(12). The six criteria include the 30-foot buffer, 20% slope grading limitation, one-acre accessible open space, South Hills Study limitation over 900 feet, 300-foot ridgeline setback, and 40% common open space and clustering. (See related Issues COS-03, COS-04, COS-05, COS-06 and COS-07)

Feedback from stakeholders was somewhat mixed. Several preferred no change, some support changes to allow the setback to be scalable, and some want the setback eliminated altogether. Comments from the stakeholders

indicated interest in the preservation of the ridgeline as a shared community asset, while others questioned the necessity of the standard given the number of land acquisitions by the City for ridgeline trail expansion that are effectively preserving areas over 900' elevation.

The South Hills Study emphasizes preservation of the area above 901-feet and the policy identified as the possible source for this criterion reads as follows:

That all development shall be reviewed for potential linkages with or to the ridgeline park system.

As identified in Eugene's Parks and System Plan, no land inside the UGB is identified for the ridgeline park system expansion. In further analysis of the South Hills Study, it appears that the 300-foot setback may have been an attempt to apply a clear and objective standard to address a stated expectation (not a recommendation) in the study that "preservation of the area above 901 feet would provide a *buffer averaging several hundred feet* along significant portions of the urban service area" [emphasis added]. If this is the case, the intent was not that the buffer be created on properties below 901 feet as currently would be required. This also indicates that the existing UGB (roughly the prior 'urban service area') was not intended to be the marker for the buffer, but rather that the topographic area above 901 feet recommended to be "preserved from an intensive level of development" would *effectively provide* a buffer averaging several hundred feet (presumably based on the average width of the areas over 901 feet). Map analysis revealed that there are significant portions of the UGB that go through property below 900-foot elevation to which this setback requirement applies. For these reasons, the recommendation includes adding clarifications on the applicability of the requirement to make it more consistent with the intent of the South Hills Study.

The ridgeline is a visual and recreational amenity of the community that most people agree should be protected. However, the existing criterion is problematic.

- The criterion is ineffective. The UGB does not follow the ridgeline precisely, and therefore, this requirement does not effectively promote ridgeline preservation.
- The requirement may be redundant given the limitation over 900 feet that prevents an intensive level of development.
- Without qualifiers to ensure that what is being protected within the 300-foot setback is actually within the viewshed sought to be preserved, the requirement inhibits efficient use of land on affected properties.
- The requirement also inhibits efficient use of buildable land as demonstrated by properties that slope toward the UGB, meaning the slope facing *away* from the City would be preserved while the portion of the site facing toward the City falls outside the setback area—in this case the setback may actually push development onto the more visible portion of the site.

Vacant and partially vacant lands on the City's Buildable Land Inventory are designated for housing, and as the City grows, will need to be developed to accommodate Eugene's growing population. In terms of effectiveness, it is questionable whether this requirement is necessary in addition to other requirements that limit high elevation development and given that the ridgeline parks system within the UGB has been acquired. If the criterion is kept, in addition to the other recommendations, a scalable setback could also be considered to mitigate impacts to smaller infill development sites.

COS-07 (40 PERCENT OPEN SPACE REQUIREMENT FOR PUDs)

Description: The clear and objective planned unit development track includes a criterion that requires a minimum 40 percent of the development site be retained as open space for properties within the South Hills Study. This can impact residential development feasibility by limiting area available for development.

Applies To: Planned Unit Development

Existing Code Section(s): EC 9.8325(12)(c)

Existing Code Language:

(12) For any PUD located within or partially within the boundaries of the South Hills Study, the following additional approval criteria apply:

(c) Development shall cluster buildings in an arrangement that results in at least 40% of the development site being retained in 3 or fewer contiguous common open space areas. For purposes of this section, the term contiguous open space means open space that is uninterrupted by buildings, structures, streets, or other improvements.

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	–	–	○	○	○	○	○
B. Reduce percentage requirement for open space	+	–	○	○	○	○	○
C. Develop criterion that defines specific characteristics to be preserved (e.g., areas 1/4 acre or more with X or more significant trees, not to exceed XX% of the development site)	○	○	+	○	+	○	–
D. Eliminate and rely on COS-04 (Accessible Open Space for PUDs)	+	–	+	○	–	○	+
E. For multi-family developments, rely on existing open space requirements (20% of development site).	+	○	+	○	○	○	+
+ promotes ○ neutral – inhibits							

Recommendation: Revise to reduce common open space requirement to 30 percent and more accurately implement the intent of the relevant South Hills Study policy language.

➡ This issue is one of six related to the clear and objective criteria for planned unit development that contribute to limiting development feasibility of many sites. The cumulative effect of these six requirements is particularly limiting for those properties subject to the South Hills Study and additional criteria at EC 9.8325(12). The six criteria include the 30-foot buffer, 20% slope grading limitation, one-acre accessible open space, South Hills

Study limitation over 900 feet, 300-foot ridgeline setback, and 40% common open space and clustering. (See related Issues COS-03, COS-04, COS-05, COS-06 and COS-07)

Some of the members of the working group saw this requirement as redundant and supported options D or E, while others supported retaining the existing criterion. Other concepts suggested included revising the criterion to scale open space requirement relative to the size of lots (reduced lot size requires greater open space); revise to align contiguous open space areas for planned unit developments where the ridgeline buffer and park connections are in place; and to revise to scale open space requirement relative to the slope of the development.

This criterion appears to come from the following South Hills Study recommendations:

That planned unit development procedures shall be utilized for the following purposes:

1. *To encourage clustering of development in areas characterized by:*
 - a. *Shallowest slopes*
 - b. *Lowest elevations*
 - c. *Least amount of vegetation*
 - d. *Least amount of visual impact.*
2. *To encourage preservation as open space those areas characterized by:*
 - a. *Intermediate and steep slopes*
 - b. *Higher elevations*
 - c. *Significant amounts of vegetation;*
 - d. *Significant visual impact.*

That developments be reviewed to encourage clustering of open space elements of different developments in order to preserve the maximum amount of continuous open space.

The requirement for sites to retain an area of at least 40% in three or fewer contiguous common open spaces may be unnecessary and overly burdensome for less visible lower elevation sites. Because areas for preservation were intended to include high elevation, steeply sloped, significantly vegetated areas with high visual impact, overlap with COS-04 may not fully address policy direction. While the requirement may be less problematic for large sites that have greater options to cluster buildings in creative arrangements, for smaller sites the standard can create design complications, as they may have limited places to locate structures, streets, and utilities.

When the South Hills Study was written, as mentioned previously in COS-05, the south hills area was largely vacant. In addition, since that time, the City has acquired and preserved many acres of the ridgeline trail system and other high-elevation parks.

The following reasons further support the recommendation to reassess the suitability of this criterion:

- the 40% figure was an arbitrary attempt to quantify the “maximum amount” of continuous open space to be preserved
- it may be ineffective as it applies broadly to sites regardless of view potential, vegetation coverage, and steepness
- it may inhibit the efficient use of land, as it may lead to unnecessary preservation of large areas of buildable land (e.g., when applied to lower elevation, less visible sites suitable for more dense development)

COS-08 (EMERGENCY RESPONSE)

Description: The clear and objective tracks for conditional use, planned unit development, and site review applications do not include a criterion for protecting emergency response.

Applies To: Conditional Use, Planned Unit Development, Site Review

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No change	+	-	+	o	o	-	-
B. Add criterion that adopt the same standards as the Eugene Fire Code pertaining to fire apparatus access road and fire protection water supply	-	-	-	o	o	o	+
C. Add criterion to require that the applicant submit a letter from the Fire Marshal's office stating that the proposal complies with the applicable Eugene Fire Code requirements regarding fire apparatus access roads and fire protection water supply	+	+	+	o	o	+	+
+ promotes o neutral - inhibits							

Recommendation: Add criterion that requires the applicant submit a letter from the Fire Marshal's office stating that the proposal complies with the applicable Eugene Fire Code requirements regarding fire apparatus access roads and fire protection water supply. (Option C)

Option C received the most stakeholder support, with option B receiving moderate support. Implementation of option B is less technically feasible as it would require periodic updates to the land use code to ensure the adopted version stay consistent with the current version of Eugene Fire Code. This would also create an undesirable redundancy in code as the Eugene Fire Code already applies. Option C would allow the Fire Marshal's office to determine whether it is feasible to provide services to proposed development and would ensure that this coordination occur early in the design process. The Fire Marshal's office is the best party to evaluate whether a particular development can be served and the requirement of a letter is consistent with other methods used to demonstrate compliance with standards (as for geotechnical and tree standards).

The Fire Marshal's office supports this option as a more effective and efficient way to accomplish their review of new proposals.

For these reasons, option C was the clear recommendation.

COS-09 (CONDITIONAL USE REQUIREMENT)

Description: The clear and objective conditional use approval criteria largely cross-reference other standards already applicable to development—in other words, standards that would already be applied at time of building permit. There are only limited provisions for traditional consideration of the compatibility of the proposed conditional use and surrounding properties. Conditional use permits for housing are rare as they are only required for limited types of housing (assisted care, boarding and rooming houses, campus living organizations, and single room occupancy (SRO)).

Applies To: Conditional Use

Existing Code Section(s): 9.8100

Existing Code Language:

- 9.8100** **Conditional Use Permit Approval Criteria- Needed Housing.** *The hearings official shall approve, conditionally approve, or deny the conditional use permit application . Unless the applicant elects to use the general criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria - General, where the applicant proposes needed housing, as defined by the State statutes, the hearings official shall approve or approve with conditions a conditional use based on compliance with the following criteria:*
- (1)** *The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.*
 - (2)** *If applicable, the proposal complies with the standards contained in EC 9.5500 Multiple-Family Standards.*
 - (3)** *For areas not included on the city’s acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with all of the following:*
 - (a) The proposal complies with EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards.*
 - (b) Natural resource areas designated on the comprehensive plan diagram as “Natural Resource” are protected. Protection shall include the area of the resource and a minimum 50 foot buffer around the perimeter of the natural resource area.*
 - (4)** *The proposal complies with all applicable standards, including, but not limited to:*
 - (a) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.*
 - (b) EC 9.6710(6) Geological and Geotechnical Analysis.*
 - (c) EC 9.6730 Pedestrian Circulation On-Site.*
 - (d) EC 9.6735 Public Access Required.*
 - (e) EC 9.6750 Special Setback Standards.*
 - (f) EC 9.6775 Underground Utilities.*
 - (g) EC 9.6780 Vision Clearance Area.*
 - (h) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.*
 - (i) An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.*
 - (5)** *Public improvements as required by this land use code or as a condition of tentative plan approval have been completed, or:*
 - (a) A performance bond or suitable substitute as agreed upon by the city has been filed*

- with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or*
- (b) *A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the conditional use permit, and the petition has been accepted by the city engineer.*

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	+	+	+	+	0	0	-
B. Eliminate conditional use requirement for the limited housing types that require a conditional use permit	+	-	+	-	0	0	+
C. Change the requirement for housing that currently requires a conditional use (Type III) to site review (Type II)	+	0	+	0	0	0	0
D. Add criteria that address compatibility (related issue # COS-01 Clear & Objective Compatibility)	0	+	+	+	+	0	+
+ promotes 0 neutral - inhibits							

Recommendation: Retain existing Type III process and add new compatibility criterion from COS-01. (Option D)

Stakeholder support was mixed. Some supported eliminating the need for conditional use for all housing types, some supported downsizing the process to a Type II (see below) site review, adding a compatibility criterion received moderate support, and some preferred a combination of change to a site review requirement with the new compatibility criterion.

The types of housing that require a conditional use permit are often coupled with an employment component. For example, assisted care facilities are allowed in the low-density residential zone with an approved conditional use permit. Assisted care facilities provide housing coupled with services like dining, medical care, recreational programming, and administrative staff that may require employees 24 hours a day. No conditional use applications have been processed using the clear and objective track.

The process a land use application follows is related to the amount of discretion required to render the decision. Type I applications are administrative. Types II, III, and IV are quasi-judicial with increasing discretion from:

- Planning Director decision (Type II)
- Hearings Official decision, includes public hearing (Type III)
- Planning Commission recommendation/City Council decision, includes two public hearings (Type III)

In the context of the State requirement for a clear and objective path to approval for housing applications, discretion is consequently limited, making the Type II process appropriate. On the other hand, the more

subjective discretionary track option, requires and benefits the more rigorous Type III process. Below is an excerpt from the land use code describing the types:

- 9.7045** ***Description of Quasi-judicial Decisions Type II, Type III, Type IV.*** *Quasi-judicial decisions follow either a Type II, Type III or a Type IV process. A quasi-judicial decision concerns a specific site or area, and involves the exercise of discretion in making a decision.*
- (1)** *A Type II process is based on a review of criteria that requires a limited amount of discretion. The Type II process includes public notice of the application and an opportunity for citizens to provide comments prior to the decision. The process does not include a public hearing unless the decision is appealed. Notice of the decision is provided to allow the applicant or an adversely affected person to appeal the decision to a higher local review authority.*
- (2)** *A Type III process is a decision-making process in which a hearings official or the historic review board makes the initial decision. The Type III process includes public notice and a public hearing, as well as the opportunity for a local appeal to be filed by the applicant, an individual who testified orally or in writing during the initial public hearing, or affected neighborhood group.*

While the Type III process is generally intended for decisions requiring more discretion, the process affords other benefits for potentially impacted surrounding properties: more review time, greater noticing radius, and a public hearing. Given mixed feedback from stakeholders regarding option C (many supported/many opposed), and the operating characteristics of the uses subject to conditional use review, the recommendation is to retain the Type III process. To address compatibility impacts it is also recommended that the new compatibility criterion proposed under COS-01 also consider these impacts.

COS-10 (PARTITION TREE PRESERVATION)

Description: For partitions, there is an inconsistency between the two review tracks regarding tree preservation. The clear and objective track requires compliance with EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards, whereas the discretionary track does not. The discretionary track is more commonly used, likely due to this difference. The partition is a tool for infill development that has a longstanding practice and intent of allowing minor land divisions to encourage development. Tree preservation and removal standards at EC 9.6880 through EC 9.6885 already apply to development of housing at the time of building permit, based on the size of the parcel.

Applies To: Partitions

Existing Code Section(s): 9.8220(2)(k)

Existing Code Language:

9.8220(2) *The proposed partition complies with all of the following:*

...

(k) *EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.*

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	–	○	+	○	○	–	–
B. Remove tree preservation criterion from clear and objective track for partitions	+	○	+	○	○	+	+
+ promotes ○ neutral – inhibits							

Recommendation: Remove criterion. (Option B)

Option B received the most support from stakeholders, in addition to strong opposition to option A. A few people expressed a desire to add stronger tree preservation requirements and also add tree preservation to the discretionary track for partitions.

Partitions involve minor land divisions (creation of 2-3 parcels) that support infill development and accomplish the orderly development of land within the community. Lots are often small and the requirement to preserve trees may inhibit the ability to support compact urban development. Likely for this reason, the discretionary track does not require tree preservation; therefore, removing the requirement from the clear and objective track promotes consistency and efficiency. The standards at EC 9.6880 through EC 9.6885 apply broadly and still limit tree removal on newly created parcels based on square footage as follows:

- lots under 20,000 square feet may not remove any trees without a tree removal permit unless already occupied by a single family dwelling or duplex, or once a building permit for one has been issued
- lots over 20,000 square feet are limited to removal of 5 significant trees within a 12-month period

COS-11 (TREE PRESERVATION CONSIDERATION)

Description: Under the clear and objective track for all application types, the written report required from a certified arborist or licensed landscape architect must only show that "consideration" has been given to preservation of significant trees (defined term).

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): EC 9.6885(2)(a)

Existing Code Language:

- (2) Tree Preservation and Removal Standards.** No permit for a development activity subject to this section shall be approved until the applicant submits plans or information, including a written report by a certified arborist or licensed landscape architect, that demonstrates compliance with the following standards:
- (a) The materials submitted shall reflect that consideration has been given to preservation in accordance with the following priority:
1. Significant trees located adjacent to or within waterways or wetlands designated by the city for protection, and areas having slopes greater than 25%;
 2. Significant trees within a stand of trees; and
 3. Individual significant trees.

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	0	-	+	-	-	0	-
B. Require preservation of 30% of significant healthy trees on a development site. Define healthy (significant is already defined as a living, standing tree having a trunk with a minimum cumulative diameter at breast height of 8 inches).	+	+	+	0	+	0	-
C. Require preservation of 30% of significant healthy trees on a development site, or allow for payment into a tree planting & preservation fund to provide mitigation option when preservation is not feasible	+	+	+	+	+	+	-
D. Revise to address tree preservation by implementing a rating scale based on tree type, health and size.	+	+	+	0	+	0	+
+ promotes 0 neutral - inhibits							

Recommendation: Revise criterion to require tree preservation or mitigation and implement a rating scale that takes into account tree type, health, size, and location. (Option D)

Stakeholders expressed a preference for option D, a revision to create a rating scale based on tree type, size, and health. Tree location was brought up as an additional factor important when considering appropriate preservation requirements. Mitigation options were also brought up as a desirable component of any proposed changes.

The existing requirement is ineffective as there is no minimum amount of preservation required—the written certification must only state that “consideration” for preserving trees was given. Eugene’s urban forest, which is predominantly located on private lands, is a significant community asset. It is clear from feedback that tree preservation is considered an important livability, compatibility, and natural resource protection issue.

Staff reviewed a variety of codes from other cities to understand other ways in which tree preservation can be addressed. Based on this research, it is feasible to move forward with a rating scale as recommended. A rating scale system could require preservation based on lot coverage, square footage of development, density, existing trees or other factors identified as being important. While the provision to implement a rating scale would be more complex than a set preservation standard, it would better promote efficient use of land and effective tree preservation.

As it is not intended to create a requirement that would be prohibitive of housing development, in addition to preservation, options for tree replacement are also recommended. While support was not expressed to establish a mitigation bank (option C), it appears to be a feasible option that could promote:

- social equity – development in highly-vegetated areas that pay into the mitigation bank could support planting of trees in areas where the need is greatest
- environmental health – mitigation bank plantings could focus on adding climate resilient species given projected changes to our local environment, and
- economic prosperity – by supporting the urban forest system and alleviating a potential barrier to housing development

COS-12 (SITE REVIEW REQUIREMENT)

Description: The clear and objective criteria for site review are limited in scope compared to the discretionary track, largely relying on compliance with other land use code standards. Many multiple-family residential projects are allowed outright and reviewed for compliance with land use code standards such as Multiple Family Standards (See EC 9.5500) at the time of building permit review. Site review has limited applicability for residential projects and is usually triggered by site-specific/SR overlay zoning rather than a blanket requirement for certain types of housing. The site-specific criteria that were historically addressed as part of site review were codified as development standards during the 2001 Land Use Code Update.

Applies To: Site Review

Existing Code Section(s): EC 9.8445

9.8445 Site Review Approval Criteria- Needed Housing. *The planning director shall approve, conditionally approve, or deny the site review application. Unless the applicant elects to use the general criteria contained in EC 9.8440 Site Review Approval Criteria - General, where the applicant proposes needed housing, as defined by the State statutes, the planning director shall approve or approve with conditions a site review based on compliance with the following criteria:*

- (1) *The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.*
- (2) *For a proposal for multiple family developments, the proposal complies with the standards contained in EC 9.5500 Multiple Family Standards.*
- (3) *For areas not included on the city's acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with all of the following:*
 - (a) *The proposal complies with EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.*
 - (b) *Natural resource areas designated on the comprehensive plan diagram as "Natural Resource" are protected.*
- (4) *The proposal complies with all of the following standards:*
 - (a) *EC 9.2000 through 9.3980 regarding lot dimensions and density requirements for the subject zone.*
 - (b) *EC 9.6500 through 9.6505 Public Improvement Standards.*
 - (c) *EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.*
 - (d) *EC 9.6710 (6) Geological and Geotechnical Analysis.*
 - (e) *EC 9.6730 Pedestrian Circulation On-Site.*
 - (f) *EC 9.6735 Public Access Required.*
 - (g) *EC 9.6750 Special Setback Standards.*
 - (h) *EC 9.6775 Underground Utilities.*
 - (i) *EC 9.6780 Vision Clearance Area.*
 - (j) *EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.*
 - (k) *All other applicable development standards for features explicitly included in the application. An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.*
- (5) *Public improvements as required by this land use code or as a condition of tentative plan approval have been completed, or:*
 - (a) *A performance bond or suitable substitute as agreed upon by the city has been filed with the*

city finance officer in an amount sufficient to assure the completion of all required public improvements; or

- (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	○	○	+	○	○	○	-
B. Eliminate site review requirement for housing	+	○	-	-	○	○	+
C. Add criteria to address compatibility (Related issue # COS-01 Clear & Objective Compatibility)	○	+	+	+	○	○	+
+ promotes ○ neutral - inhibits							

Recommendation: Retain existing process and add new compatibility criterion from COS-01. (Option C)

Comments from stakeholders supported the removal of the site review process for housing (option B), and also expressed an interest in adding criteria that addressed compatibility of developments (option C). Without a compatibility criterion, elimination of the site review requirement would streamline the process for housing development by allowing proposal to go directly to a building permit application. As the existing clear and objective track applies the same development standards as those applicable at time of the building permit, the existing review is largely redundant. There are no housing types that require a site review. Site review is only required where a site review overlay zone exists; however, that still affects many properties. Removing the site review requirement from these properties might be technically feasible, and would promote efficiency, but it would take extensive research and evaluation on a site-by-site basis and likely require amendments to refinement plans that placed site review overlays on specific sites. The amount of time to identify all sites that have site review overlays, or are designated by refinement plans to have site review overlays, and to determine whether existing code sections sufficiently address the initial concerns that lead to the overlays, render this option practically infeasible at this time.

In addition, if the new compatibility criterion from COS-01 is implemented, then it will provide added benefit to the existing clear and objective site review process. The new compatibility criterion will be more effective at addressing impacts from higher-intensity developments when located near lower-intensity developments than existing multifamily standards.

COS-13 (GEOTECHNICAL REQUIREMENT)

Description: The standards for geological and geotechnical review for projects developed under clear and objective criteria are “one-size-fits all,” requiring certification from a licensed engineer that the development activity either will not be impacted by geological instability problems, or that design methods may be used to safely address any such impacts. The review standards for discretionary projects include three levels of review with increasing complexity depending on potential for impacts.

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): 9.6710(6)

Existing Code Language:

9.6710 ***Geological and Geotechnical Analysis.***

(6) Needed Housing. *Unless exempt under 9.6710(3)(a)-(f), in lieu of compliance with subsections (2), (4), and (5) of this section, applications proposing needed housing shall include a certification from an Oregon licensed Engineering Geologist or an Oregon licensed Civil Engineer with geological experience stating:*

- (a) That the proposed development activity will not be impacted by existing or potential stability problems or any of the following site conditions: springs or seeps, depth of soil bedrock, variations in soil types, or a combination of these conditions; or*
- (b) If proposed development activity will be impacted by any of the conditions listed in (a), the methods for safely addressing the impact of the conditions.*

If a statement is submitted under (6)(b), the application shall include the applicant’s statement that it will develop in accordance with the Engineer’s statement.

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	○	○	+	○	○	○	+
B. Establish a clear and objective multi-level review approach similar to the current discretionary criteria with increasing complexity depending on potential for impacts.	○	○	○	○	○	+	+
C. Revise current requirement to further address a site’s geologic formations, soil types, the presence of open drainage ways, and the existence of undocumented fill. Include requirement that report use Lidar map and SLIDO (Statewide Landslide Information Database of Oregon) map information.	○	+	+	+	+	+	+
+ promotes ○ neutral – inhibits							

Recommendation: Revise existing requirement to include additional risk indicators. (Option C)

There was strongest stakeholder support for option C, moderate support for option B, and support for option A was offset by opposition.

Minor revision to the existing requirement could improve its effectiveness without impacting efficiency. Adding known risk factors will help ensure that they get addressed in the geology professional's statement and recommended mitigation methods. Additionally, the recommendation for COS-03 (20 Percent Slope Grading Prohibition) is predicated on this revision also adding language to clarify that the certification must address proposed lot and road locations.

This option also allows an exploratory look into the feasibility of using newer risk assessment tools. For example, the Department of Geology and Mining Industries (DOGAMI) recently released new draft landslide history and susceptibility maps for Eugene based on lidar (which stands for Light Detection and Ranging). Here is what their website says about this new tool:

The technology of spotting landslides by use of aerial photography and new laser based terrain mapping called lidar is helping DOGAMI develop much more accurate and detailed maps of areas with existing landslides and we are now able to create landslide susceptibility maps, that is, maps that show where we think different types of landslides may occur in the future.

Revising the existing requirement has the greatest potential to ensure appropriate siting, construction, and development practices are used to mitigate potential risks of slope failure.

COS-14 (19 LOT RULE—MOTOR VEHICLE DISPERSAL)

Description: The clear and object track criterion for partitions, planned unit developments and subdivision that requires the dispersal of motor vehicles onto more than one street when more than 19 lots or parcels take access from a local street was found to be discretionary by the Land Use Board of Appeals (LUBA). As such, the City can no longer apply this criterion to applications under the clear and objective track.

Applies To: Partition, Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.8220(5)(c), EC 9.8325(6)(c), EC 9.8520(6)(b)

Existing Code Language: (partition only)

9.8220(5)(c) *The street layout of the proposed partition shall disperse motor vehicle traffic onto more than one public local street when the sum of proposed partition parcels and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.*

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. Eliminate criterion and rely on street connectivity and new emergency response criteria (see COS-08)	+	o	+	o	o	o	+
B. Revise to make the criterion clear and objective	–	o	o	o	o	o	o
+ promotes o neutral – inhibits							

Recommendation: Remove criterion and rely on the new criterion from COS-08 (Emergency Response) — include the new criterion for partitions and subdivisions. (Option A)

Option A received the strongest support from stakeholders. Public Works staff agree that the criterion can be eliminated without affecting their ability to address street connectivity and transportation concerns. The origin of this criterion is not certain, but appears to have come from an old fire code requirement. The current fire code has a similar requirement, however, it is less restrictive and does not require secondary access until 30 dwellings (single family or duplex) or 100 multi-family units. Several comments from individuals suggested that the fire code should be used for regulating emergency services to developments. Option A is also the most efficient and technically feasible option. Since the existing criterion applies to partitions and subdivisions, the new requirement from COS-08 will need to also apply to the partition and subdivision review tracks (in addition to conditional uses, planned unit developments, and site reviews).

COS-15 (TRAFFIC IMPACT)

Description: Compliance with Traffic Impact Analysis (TIA) review is explicitly required as an approval criterion under the discretionary tracks for conditional use, planned unit development and subdivision, but not for projects under the clear and objective tracks. Separate TIA review can also be triggered by projects meeting the TIA applicability standards, including generating over 100 peak hour vehicle trips. Due to the discretionary nature of the TIA criteria, they are not suitable for projects using the clear and objective track.

Applies To: Conditional Use, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	o	o	+	o	o	o	-
B. Add a requirement that the applicant demonstrate that all intersections within a certain distance of the project site not drop below the city's minimum level of service as a result of the proposed project, or that impacts will be mitigated.	o	+	o	o	o	o	+
C. Add requirement to use crash rate data to require applicants to pick from a menu of crash reduction measures when crash rates exceed a given threshold.	o	o	o	o	o	o	+
D. Increase use of transportation demand management (TDM) plans to reduce demand on the transportation system and reliance on the use of cars, and encourage more walking, biking, transit and ridesharing.	o	o	o	o	+	o	+
+ promotes o neutral - inhibits							

Recommendation: Defer to more detailed Public Works Transportation project currently getting underway.

The working groups supported all options for a change that would require traffic impacts be considered for approval of an application under the needed housing approval criteria. The split support highlights the complexity of this issue. Since the Clear & Objective project began, Public Works Transportation has received grant funding to update the transportation demand management program and traffic impact analysis process. Public Works has confirmed that this issue can be addressed within the scope of this new project. Given the

technical nature of this issue, the opportunity to be addressed more thoroughly by transportation specialists will yield a much better outcome than any attempt to create a criterion as part of the Clear & Objective update.

DRAFT

COS-16 (PUD TYPE III PROCESS)

Description: For housing applications that trigger a planned unit development, a Type III quasi-judicial application process (Hearings Official decision, appealable to Planning Commission) may not be necessary or warranted since the approval is based on clear and objective criteria.

Applies To: Planned Unit Development

Existing Code Section(s): EC 9.7305, (EC 9.7045(1) and (2) included in recommendation below)

Existing Code Language:

9.7305 Type III Application Requirements and Criteria Reference. The following applications are typically reviewed under the Type III review process according to the requirements and criteria set forth for each application as reflected in the beginning reference column in Table 9.7305. To accommodate a request for concurrent review, the city may instead review multiple applications according to the highest applicable type.

Table 9.7305 Type III Application Requirements and Criteria	
Type III Applications	Beginning Reference
Adjustment Review (when part of a Type III Application)	EC 9.8015
Conditional Use Permits (CUP)	EC 9.8075
Historic Landmark Designation	EC 9.8150
Planned Unit Development, Tentative Plan	EC 9.8300
Willamette Greenway Permit	EC 9.8800
Zone Changes*	EC 9.8850

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	0	0	+	0	0	0	-
B. For single family housing opting for the clear and objective track, drop the planned unit development requirement by adding special South Hills Study criteria to standards subdivision requirements when a planned unit development would otherwise be required	+	0	+	0	0	0	+
C. For multi-family, drop the planned unit development requirement and require site review to implement the planned unit development criteria	+	0	+	0	0	0	+
+ promotes 0 neutral - inhibits							

Recommendation: No change for now. Hold for future code improvement project.

Options B and C received moderate support, with minimal support for A. The planned unit development application is the most costly and lengthy of the land use application types and the purpose is “to provide a high degree of flexibility in the design of the site.” Many people have questioned the appropriateness of having a clear and objective Planned Unit Development given these inherent characteristics of PUDs. However, because PUDs are not strictly voluntary, the State mandate that housing applications have a clear and objective path to approval led to the implementation of the existing clear and objective track.

PUDs may be required for the following reasons:

- properties that have /PD Planned Unit Development overlay zoning,
- particular uses, such as multifamily developments in R-1 Low-Density zones, require a PUD
- proposed developments in the South Hills Study area

In addition, a property owner can choose to go through the PUD process.

As discussed previously under COS-09 (Conditional Use Requirement), the process a land use application follows is related to the amount of discretion required to render the decision. Type I applications are administrative. Types II, III, and IV are quasi-judicial with increasing discretion from:

- Planning Director decision (Type II)
- a Hearings Official decision, includes public hearing (Type III)
- Planning Commission recommendation/City Council decision, includes two public hearings (Type III)

In the context of the State requirement for a clear and objective path to approval for housing applications, discretion is consequently limited—making the Type II process more appropriate for applications choosing the clear and objective track. The discretionary track option necessarily requires the more rigorous Type III process because it is more subjective. Below is an excerpt from the land use code describing the types:

9.7045 ***Description of Quasi-judicial Decisions Type II, Type III, Type IV.*** *Quasi-judicial decisions follow either a Type II, Type III or a Type IV process. A quasi-judicial decision concerns a specific site or area, and involves the exercise of discretion in making a decision.*

- (1)** *A Type II process is based on a review of criteria that requires a limited amount of discretion. The Type II process includes public notice of the application and an opportunity for citizens to provide comments prior to the decision. The process does not include a public hearing unless the decision is appealed. Notice of the decision is provided to allow the applicant or an adversely affected person to appeal the decision to a higher local review authority.*
- (2)** *A Type III process is a decision-making process in which a hearings official or the historic review board makes the initial decision. The Type III process includes public notice and a public hearing, as well as the opportunity for a local appeal to be filed by the applicant, an individual who testified orally or in writing during the initial public hearing, or affected neighborhood group.*

There seems to be support or openness to changing the clear and objective track for planned unit developments from a Type III to a Type II review. This option would promote efficiency in processing these applications and, since discretion is already limited, effectiveness is determined more by the quality of approval criteria than the process under which the application is reviewed. This would be a significant change; however, and staff have not

had sufficient time to fully vet the technical feasibility of implementation. For this reason, the recommendation at this time is to defer this change to a future code improvement project.

DRAFT

COS-17 (DOES NOT HAMPER PROVISION OF PUBLIC OPEN SPACE) MOVED TO COM-18

This item has been moved to Maintenance and renumbered COM-18

DRAFT

COS-18 (ARBORIST AND LANDSCAPE ARCHITECT REQUIREMENT)

Description: The professional design team for a planned unit development requires both a licensed arborist and a licensed landscape architect. Considering that a tree preservation report can be prepared by either an arborist or landscape architect, as specified in the tree preservation written report requirements in EC 9.6885(2), there is inconsistency between the two requirements.

Applies To: Planned Unit Development

Existing Code Section(s): EC9.8310(2)(b)

Existing Code Language:

(2) Project Coordinator and Professional Design Team. The tentative PUD application shall identify the PUD project coordinator and the professional design team and certify compliance with the following:

(b) Professional Design Team Designation. Unless waived by the planning director, the professional design team shall consist of at least the following professionals:

1. Oregon licensed arborist.
2. Oregon licensed architect.
3. Oregon licensed civil engineer.
4. Oregon licensed landscape architect.
5. Oregon licensed land surveyor.

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	o	o	+	o	o	o	o
B. Allow for a landscape architect to substitute for an arborist on a PUD design team.	o	o	+	o	o	o	o
+ promotes o neutral – inhibits							

Recommendation: No change. (Option A)

The working groups expressed divided support (and opposition) for both A and B. While the Eugene Code allows for a landscape architect or arborist to write the report required by the tree preservation and removal criteria at EC 9.6885(2), there were polarized opinions on whether allowing just a landscape architect on the planned unit development design team is as effective as having an arborist too. Planned unit developments occur predominantly in the south hills where there are often significant tree concerns. In addition, if the recommendation for COS-11 (Tree Preservation Consideration) is implemented, there may be greater justification for requiring an arborist. This particular issue would also be unnecessary if a future code improvement changes the clear and objective track for planned unit developments from a Type III to a Type II process.

COS-19 (STREET STANDARDS MODIFICATIONS)

Description: Currently, projects can vary stated maximums for block length, street connectivity, and cul-de-sac/emergency vehicle turnarounds where physical conditions, such as topography or natural resources, or existing physical development precludes compliance with the standard.

Applies To: Partition, Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.6810, EC 9.6815(2)(g), EC 9.6820

Existing Code Language:

9.6810 Block Length. *Block length for local streets shall not exceed 600 feet, unless an exception is granted based on one or more of the following:*

- (1)** *Physical conditions preclude a block length 600 feet or less. Such conditions may include, but are not limited to, topography or the existence of natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.*
- (2)** *Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a block length 600 feet or less, considering the potential for redevelopment.*
- (3)** *An existing public street or streets terminating at the boundary of the development site have a block length exceeding 600 feet, or are situated such that the extension of the street(s) into the development site would create a block length exceeding 600 feet. In such cases, the block length shall be as close to 600 feet as practicable.*
- (4)** *As part of a Type II or Type III process, the developer demonstrates that a strict application of the 600-foot requirement would result in a street network that is no more beneficial to vehicular, pedestrian or bicycle traffic than the proposed street network and that the proposed street network will accommodate necessary emergency access.*

9.6815(2) Street Connectivity Standards.

- (g)** *In the context of a Type II or Type III land use decision, the city shall grant an exception to the standards in subsections (2)(b), (c) or (d) if the applicant demonstrates that any proposed exceptions are consistent with either subsection 1. or 2. below:*
 - 1.** *The applicant has provided to the city, at his or her expense, a local street connection study that demonstrates:*
 - a.** *That the proposed street system meets the intent of street connectivity provisions of this land use code as expressed in EC 9.6815(1); and*
 - b.** *How undeveloped or partially developed properties within a quarter mile can be adequately served by alternative street layouts.*
 - 2.** *The applicant demonstrates that a connection cannot be made because of the existence of one or more of the following conditions:*
 - a.** *Physical conditions preclude development of the connecting street. Such conditions may include, but are not limited to, topography or likely impact to natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.*

- b. Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment.*

- 9.6820(5)** *As part of a Type II or Type III process, an exception may be granted to the requirements of (1), (3) and (4) of this section because of the existence of one or more of the following conditions:*
- (a) Physical conditions preclude development of the connecting street. Such conditions may include, but are not limited to, topography or likely impact to natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat areas, or a resource on the National Wetland Inventory or under protection by state or federal law.*
 - (b) Buildings or other existing development on the subject property or adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment.*

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	○	○	+	○	○	○	○
B. Define specific circumstances that qualify for an exception to the block length, street connectivity, and cul-de-sac/turnaround standards for clear and objective projects.	+	+	+	○	○	○	+
C. Add an adjustment review option to allow for modifications if the standard cannot be met.	+	+	+	○	○	○	+
+ promotes ○ neutral – inhibits							

Recommendation: Revise to allow clear and objective exceptions and allow adjustment review option. (Options B and C)

The working groups expressed support for both B and C and a combination of the two. Both options received the same rating in all categories. Both options may promote efficiency and effectiveness. An adjustment review option is feasible; however, providing clear exceptions to avoid a discretionary process when conditions clearly call for an exception is desirable. It is recommended that the existing code language be revised to include specifically identify circumstances that allow for an outright exception. For other alternative designs, the adjustment review process would ensure that proposals respond to the intent of the code. References to the allowable adjustments and adjustment criteria will also be required.

COS-20 (PEDESTRIAN DEFINITION)

Description: There are many references in the land use code to the word “pedestrian.” However, the term is not defined in the definitions section of the land use code at EC 9.0500.

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): Multiple

Existing Code Language: Below is one example:

9.8520 Subdivision, Tentative Plan Approval Criteria - Needed Housing

- (6) *The proposed subdivision provides safe and adequate transportation systems through compliance with the following:*
- (a) *Provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. “Nearby” means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.*

Possible Concepts	Efficiency	Effectiveness	Technical Feasibility	Social Equity	Environmental Health	Economic Prosperity	Stakeholder Support
A. No Change	○	○	+	○	○	○	
B. Define pedestrian as "non-motorized use(r)s of transportation facilities, including, but not limited to bicyclists, pedestrians, wheelchair users, child strollers, and individuals who have sight, hearing or mobility impairments or any other condition that affects their safety when travelling on public or private transportation facilities."	○	○	–	○	○	○	
C. Define pedestrian using the definition provided in state statute at ORS 801.385 [Oregon Vehicle Code]: “any person afoot or confined in a wheelchair.”	○	+	+	○	○	○	
+ promotes ○ neutral – inhibits							

Recommendation: Add definition for ‘pedestrian’ based on modified version of that provided in the Oregon Revised Statutes (ORS).

There was strong stakeholder support for using the definition of pedestrian provided in State statutes at ORS 801.385 [Oregon Vehicle Code]. This would provide clarity when the term pedestrian is used in the clear and objective approval criteria. It was suggested that changing “confined to a wheelchair” to “using a wheel chair”

was more inclusive. In addition, several felt that the definition should cover both motorized and non-motorized wheelchairs. The recommended definitions is “any person afoot or using any type of wheelchair.”

DRAFT